

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
AND NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **May 19, 2011**, at 10:00 a.m.
in Room 310 of the County Administration Center,
1600 Pacific Highway, San Diego, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **May 19, 2011**, following the Public Meeting,
in Room 310 of the County Administration Center,
1600 Pacific Highway, San Diego, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **May 19, 2011**, following the Public Hearing,
in Room 310 of the County Administration Center,
1600 Pacific Highway, San Diego, California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

JOHN D. MACLEOD, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders and the General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **May 19, 2011**.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4
Article 2, Section 1504
Article 12, Section 1600
Article 13, Sections 1602-1603.1
Work Over or Near Water

2. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4, Article 2
Section 1504
GENERAL INDUSTRY SAFETY ORDERS
Division 1, Chapter 4, Subchapter 7, Article 1
Section 3207
Definition of Certified Safety Professional (CSP)

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4
Article 2, Section 1504
Article 12, Section 1600
Article 13, Sections 1602-1603.1
Work Over or Near Water

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

During a recent update of pile driving standards, Board staff noted that 29 CFR 1926.603, Pile Driving Equipment, subsection (b) requires that barges or floats supporting pile driving operations meet the applicable requirements of 29 CFR 1926.605, Marine Operations and Equipment. Further investigation revealed that California standards for work over or near water (marine operations), including pile driving, were not as effective as federal standards found in 29 CFR 1926.605 and that California has jurisdiction over certain maritime operations covered by 29 CFR 1926.605.

The Board therefore proposes to adopt standards which are at least as effective as federal standards. The Board notes that California standards for work over water are contained primarily in CSO Article 13. As noted above, federal standards for pile driving contain a cross-reference to 29 CFR 1926.605 for marine operations; thus it is necessary to amend Article 12 to include a cross-reference to CSO Article 13 for work over or near water. Article 2, Definitions, is also proposed to be amended to include a definition relevant to these modifications.

This proposed rulemaking action contains nonsubstantive, editorial and grammatical revisions. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:

Article 2, Section 1504. Definitions.

New subsections 1603(h) and (i) contain provisions for Jacob's ladders. Since this type of ladder is not currently defined in the CSO, a definition for Jacob's ladders is proposed to be added to definitions applicable to all Construction Safety Orders. The effect of this amendment will be to clarify requirements of the CSO for work over or near water. Please, note that, for better organization of Section 1504, existing definitions of the various types of ladders have been reordered alphabetically.

Article 12, Section 1600. Pile Driving.

29 CFR 1926.603(b) prescribes that barges or floats supporting pile driving operations shall meet applicable requirements of 29 CFR 1926.605 (Marine Operations and Equipment). During the recent update of California pile driving standards, it was discovered that Title 8, CSO Article 12, Pile Driving, the state counterpart of 29 CFR 1926.603, did not contain this requirement; however, the omission was determined to be outside the scope of that noticed rulemaking. It is therefore proposed to modify subsection 1600(k) to require that barges or floats supporting pile driving operations meet requirements of CSO Article 13 which contains, or is being amended to contain, provisions at least as effective as those contained in 29 CFR 1926.605. The effect of this modification will be to ensure that California

standards for pile driving operations over or near water be conducted in a manner at least as effective as federal standards.

Article 13, Section 1602. Work Over or Near Water, Subsection (a), Safety Devices.

CSO Article 13 does not currently require that there be ladder access from the top of the apron to the surface of the water. This ladder is required for lifesaving purposes by 29 CFR 1926.605(d)(2). It is therefore proposed to add new subsection 1602(a)(4) to include this provision. The effect of this amendment will be to ensure that California standards for work over or near water will be at least as effective as federal standards.

Section 1602. Work Over or Near Water, new Subsection (b), First Aid.

Although General Industry Safety Orders (GISO) Section 3400, Medical Services and First Aid, is applicable to all work in general industry, federal 29 CFR 1926.605(d)(1) contains a specific requirement that maritime operations include procedures for rendering first aid and medical assistance. It is therefore proposed to include a cross-reference to Section 3400 in Section 1602 as subsection (b). The effect of this amendment will be to ensure that California standards for work over or near water are at least as effective as the federal provisions.

Section 1603. Walkways (renamed “Access to or from Wharves, Floats, Barges and/or Boats”).

Section 1603 currently contains provisions for walkways on dredge discharge pipe lines. It also contains requirements for catwalks and platforms. Federal standard 29 CFR 1926.605(b) contains a broader listing of requirements for vehicular and personnel access to or from wharves, floats, barges and/or boats, including vehicle access ramps, gangways, and Jacob’s ladders. It is proposed to rename Section 1603 as “Access to or from Wharves, Floats, Barges and/or Boats,” and to add new subsections to address all subjects addressed by 29 CFR 1926.605(b). The effect of these amendments will be to ensure that California standards are at least as effective as the federal provisions.

New Section 1603.1. Working Surfaces of Barges.

29 CFR 1926.605(c) contains requirements that are specific for working surfaces of barges. The lack of California counterpart standards was discovered during a recent update of pile driving standards; however these provisions were deemed to be outside the announced scope of that rulemaking. It is therefore proposed to adopt these federal standards which include requirements for safe passage over or around deck loads and for fall protection when working on deck loads. The effect of this adoption will be to assure that California standards for work surfaces on barges are at least as effective as federal standards.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these standards do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to these standards will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4, Article 2
Section 1504
GENERAL INDUSTRY SAFETY ORDERS
Division 1, Chapter 4, Subchapter 7, Article 1
Section 3207
Definition of Certified Safety Professional (CSP)

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The proposed amendments are the result of the Occupational Safety and Health Standards Board (Board) decision regarding OSHSB Petition File No. 515 dated October 21, 2010, submitted by Mr. John McCullough, Assistant Vice President of Wells Fargo Insurance Services USA, Inc. The Petitioner requested the Board adopt a definition of the term “Certified Safety Professional” (CSP) and place it in Title 8. The Petitioner noted that while Certified Industrial Hygienist, Registered Engineer (Professional Engineer), and Certified Marine Chemist definitions are easily found in Title 8 and elsewhere in California Statutes, the term “Certified Safety Professional” and/or the acronym “CSP” are not. In the course of evaluating the Petitioner’s request, Board staff confirmed that the “CSP” acronym represents a number of certified professionals in disciplines other than occupational safety. The Board of Certified Safety Professionals (BCSP) is the only body authorized to bestow the “Certified Safety Professional” designation.

Board staff notes that Federal Occupational Safety and Health administration standards and the American National Standards Institute (ANSI Z590.2-2003, Criteria for establishing the Scope and Functions of the Professional Safety Position) refer to the designation “Certified Safety Professional”, but fail to define the term.

Section 1504. Definitions.

Existing Section 1504 defines a broad category of words and terms used throughout the Construction Safety Orders (CSO). The amendment adds the BCSP definition of “Certified Safety Professional” or “CSP”. The

proposed amendment will ensure clarity and consistency throughout Title 8 in defining “Certified Safety Professional”.

Section 3207. Definitions.

Existing Section 3207 of the General Industry Safety Orders (GISO), defines terms for general use these orders. An amendment is proposed to add to Section 3207 the BCSP definition of the term “Certified Safety Professional” or “CSP”. The amendment will clarify the meaning of a “Certified Safety Professional” or “CSP” and provide consistency with other credentialed professional designations already defined in Title 8.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No adverse impact is anticipated as this proposal simply provides clarity and consistency in defining a term already used in Title 8.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7

(commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All state, local and private employers - will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board’s Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board’s Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than May 13, 2011. The official record

of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on May 19, 2011, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Mike Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

JOHN D. MACLEOD, Chairman

NOTICE OF ADOPTION OF
REGULATIONS
INTO TITLE 8, CALIFORNIA CODE OF REGULATIONS
BY THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

After proceedings held in accordance with and pursuant to the authority vested in Sections 142, 142.3 and 142.4, of the Labor Code to implement, interpret, or make specific, the Occupational Safety and Health Standards Board, by a majority vote, adopted additions, revisions, or deletions to the California Code of Regulations as follows:

1. Title 8, Division 1, Chapter 4, Subchapter 7, General Industry Safety Orders, Article 7, Section 3328, **Machinery and Equipment**.

Heard at the November 18, 2010, Public Hearing; adopted on January 20, 2011; filed with the Secretary of State on March 7, 2011; and will become effective on April 6, 2011.

Copies of this standard are available upon request from the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721.

If you have Internet access, visit the Occupational Safety and Health Standards Board by going to: <http://www.dir.ca.gov/oshsb> and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: oshsb@dir.ca.gov.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Marley Hart, Executive Officer